

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America)
v.)
Charles Mason) Case No. 16-20696
Defendant)

)

ORDER OF DETENTION PENDING TRIAL

Part I - Eligibility for Detention

Upon the

Motion of the Government attorney pursuant to 18 U.S.C. § 3142(f)(1), or
 Motion of the Government or Court's own motion pursuant to 18 U.S.C. § 3142(f)(2),

the Court held a detention hearing and found that detention is warranted. This order sets forth the Court's findings of fact and conclusions of law, as required by 18 U.S.C. § 3142(i), in addition to any other findings made at the hearing.

Part II - Findings of Fact and Law as to Presumptions under § 3142(e)

A. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(2) (*previous violator*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community because the following conditions have been met:

(1) the defendant is charged with one of the following crimes described in 18 U.S.C. § 3142(f)(1):

(a) a crime of violence, a violation of 18 U.S.C. § 1591, or an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; **or**

(b) an offense for which the maximum sentence is life imprisonment or death; **or**

(c) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508); **or**

(d) any felony if such person has been convicted of two or more offenses described in subparagraphs (a) through (c) of this paragraph, or two or more State or local offenses that would have been offenses described in subparagraphs (a) through (c) of this paragraph if a circumstance giving rise to Federal jurisdiction had existed, or a combination of such offenses; **or**

(e) any felony that is not otherwise a crime of violence but involves:

(i) a minor victim; (ii) the possession of a firearm or destructive device (as defined in 18 U.S.C. § 921); (iii) any other dangerous weapon; or (iv) a failure to register under 18 U.S.C. § 2250; **and**

(2) the defendant has previously been convicted of a Federal offense that is described in 18 U.S.C. § 3142(f)(1), or of a State or local offense that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed; **and**

(3) the offense described in paragraph (2) above for which the defendant has been convicted was committed while the defendant was on release pending trial for a Federal, State, or local offense; **and**

(4) a period of not more than five years has elapsed since the date of conviction, or the release of the defendant from imprisonment, for the offense described in paragraph (2) above, whichever is later.

B. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(3) (narcotics, firearm, other offenses): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because there is probable cause to believe that the defendant committed one or more of the following offenses:

- (1) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508);
- (2) an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332b;
- (3) an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed;
- (4) an offense under Chapter 77 of Title 18, U.S.C. (18 U.S.C. §§ 1581-1597) for which a maximum term of imprisonment of 20 years or more is prescribed; **or**
- (5) an offense involving a minor victim under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

C. Conclusions Regarding Applicability of Any Presumption Established Above

The defendant has not introduced sufficient evidence to rebut the presumption above.

OR

The defendant has presented evidence sufficient to rebut the presumption, but after considering the presumption and the other factors discussed below, detention is warranted.

Part III - Analysis and Statement of the Reasons for Detention

After considering the factors set forth in 18 U.S.C. § 3142(g) and the information presented at the detention hearing, the Court concludes that the defendant must be detained pending trial because the Government has proven:

- By clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.
- By a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.

In addition to any findings made on the record at the hearing, the reasons for detention include the following:

- Weight of evidence against the defendant is strong
- Subject to lengthy period of incarceration if convicted
- Prior criminal history
- Participation in criminal activity while on probation, parole, or supervision
- History of violence or use of weapons
- History of alcohol or substance abuse
- Lack of stable employment
- Lack of stable residence
- Lack of financially responsible sureties
- Lack of significant community or family ties to this district

- Significant family or other ties outside the United States
- Lack of legal status in the United States
- Subject to removal or deportation after serving any period of incarceration
- Prior failure to appear in court as ordered
- Prior attempt(s) to evade law enforcement
- Use of alias(es) or false documents
- Background information unknown or unverified
- Prior violations of probation, parole, or supervised release

OTHER REASONS OR FURTHER EXPLANATION:

Defendant is 22 years old, has three pending state cases in three different jurisdictions alleging the same or similar allegations as in the instant case; he is currently on probation in one of these cases and has bonds in the other two cases. He is charged by way of indictment in the instant case with eight counts of access device fraud, aggravated identity theft, possession of device-making equipment, production of counterfeit access devices, possession of stolen access devices, and false statements to a federal agent. Defendant's criminal history begins at age 13 when he is charged with felony larceny. At age 14 he is again charged with felony larceny. At age 17 he is charged with retail fraud, and referred to HYTA. At age 21 he was charged on 11/4/2015 with felony forgery and counterfeiting in Livingston County, where he is currently on bond and he is scheduled to be sentenced on 11/3/2016 in that case. One month later he was charged on 12/9/2015 with felony fraudulent activities, possession of marijuana, and false pretenses in Taylor, MI. He was then charged with Felony Fraudulent Activities on 2/24/2016 in Southfield, Michigan. On 4/25/2016 Defendant was charged in Southgate Michigan with Retail Fraud, 3rd degree, and pled guilty. Defendant is currently on probation in that court. Then on 10/1/2016 Defendant was charged in Beverly Hills, CA with Felony Burglary, Felony Forge Access Card to Defraud, Identity Theft, and was placed on a \$50,000 bond, after he tried to steal a \$12,000 Cartier watch. His next court date is 11/29/2016 in that case. Defendant is highly skilled at preying on victims using access device fraud, his knowledge in making counterfeit identities, stealing credit cards and converting them to gift cards, and identity theft. He continues to commit the same crimes repeatedly, and is undeterred, notwithstanding the fact that the cases are accumulating in number and escalating in severity. His home was searched and he was found to be in possession of re-encoded credit cards, an embossing machine for re-encoding credit cards, credit card skimmers, and false drivers license identifications. Defendant has stolen more than \$100,000.00 within the past year alone. Pretrial Services concludes that Defendant poses both a risk of flight and danger to the community and recommends detention. This court finds that a preponderance of the evidence shows Defendant to be a flight risk (he has one active warrant for failure to appear in 36th District Court in Detroit), and that there is clear and convincing evidence that Defendant's unrelenting predatory behaviors make him a danger to the community. The Court has serious concerns about the lifestyle of this defendant who for the past four months has been living with his girlfriend and her brother, spending \$69,000 in stolen money in one month's time with her on vacation in Florida last year, has changed addresses multiple times from 2013 - 2016, and seems not to be rooted. There is no condition or combination of conditions that will assure Defendant's appearance or the safety of the community. Detention is therefore ordered.

Part IV - Directions Regarding Detention

The defendant is remanded to the custody of the Attorney General or to the Attorney General's designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant must be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: October 25, 2016

s/Mona K. Majzoub

Judge's Signature

Mona K. Majzoub, U.S. Magistrate Judge

Name and Title